



Lamoine Board of Selectmen Minutes of April 20, 2006

Chair Jo Cooper called the meeting to order at 7:00 PM

Present were: Selectmen Brett Jones, Richard Fennelly Jr., Cynthia Donaldson, Perry Fowler, S. Josephine Cooper; Administrative Assistant Stu Marckoon, Code Enforcement Officer Dennis Ford, Harbor Master Gerald Ford, Fire Chief George Smith, Deputy Harbor Master David Herrick Sr., members of the public Robert Alvarez, Richard Sprague, William Fennelly, Douglas & Thomas Barr and Cable TV Technician Chris Bowman.

Agenda Review - There were no changes to the printed agenda. Cynthia offered her congratulations to Jo being named the Ellsworth Chamber of Commerce Citizen of the Year.

Consideration of Minutes – Richard handed in several minor corrections to the printed minutes, including one to note that only some Selectmen had a concern with an article in the draft version of the Lamoine Quarterly. Jo moved to approve the minutes with the changes noted. Perry 2nd. **Vote in favor was 5-0.**

Sweeping Bids – Stu said there were two bids received. Jo opened a bid from Downeast Supervac. The equipment was not listed. The bid was for \$88/hour or \$2,700 lump sum. Cynthia read the bid from George Crawford for \$65/hour with no lump sum. Perry asked if Mr. Crawford could be given an amount not to exceed. Jo said Mr. Crawford did a good job last year. She asked Road Commissioner Dennis Ford if his proposal about shaping the shoulders was intended to be part of the sweeping project. Dennis said no, that was a separate project.

Perry moved to award the bid to George Crawford. Richard 2nd, noting his price is about 75% that of the competition. **Vote in favor was 5-0.**

Fire Department Painting Completion – Fire Chief George “Skip” Smith said the project originally was broken up to clean the walls first to see if that would work. He said he’d gotten an offer to paint the downstairs from Mary Harney for \$2,000. He said it would be better to do it now than to wait and have to wash down the engine bays again. Richard said the money has been encumbered for that purpose. Jo said it made sense to her. Richard moved to spend the encumbered \$1,954 to do the painting. Chief Smith said the fire department would pay the additional cost from the department’s funds. He noted that did not include painting the floor, which he said might be done with department funds. Perry 2nd. **Vote in favor was 5-0.**

Appeal of Harbor Master Decision – Harbor Master Gerald Ford said that Richard Sprague wanted permission to put his boat on another man's mooring. He said he turned down that request based on local ordinance and state statute. Richard asked if the request was for Mr. Sprague to hang his boat on Gene Kimball's mooring. Mr. Ford said it was. Richard said he could not see in the local ordinance where that is not allowed. Mr. Ford said state laws indicate that would be a rental mooring situation. He said it can't be done in Lamoine's harbor, and any rentals require federal approval. Brett asked if it was considered a rental even if there was no transfer of funds. Mr. Ford said a verbal agreement could constitute a rental.

Richard asked about a sailing club mooring in the harbor. Mr. Ford said there is a guest mooring available, but people cannot tie up to it for more than 48-hours. Jo asked how long one has to be on a mooring before it becomes a rental. Mr. Ford said 48-hours according to state statute.

Richard said the issue has troubled him for a few years. He said many towns have harbor rules that are getting exclusive. Mr. Sprague said Mr. Ford told him that he could not use Mr. Kimball's mooring – it is against the law. He said a letter from the town hall indicated that he could temporarily use the mooring with the owner's permission. Jo read the Harbor Ordinance permit as follows: *This permit is non-transferable and is for the use of the above named person only, except on a temporary basis at the discretion of the Harbor Master or designee.* She read from Mr. Sprague's appeal as follows: *I will temporarily be using this mooring until my name comes up on the list, if my request for being co-owner is not granted.*

Jo asked what temporary constituted in regard to Mr. Sprague's letter. Mr. Sprague said there are three co-owned moorings. Jo said when the town draws up ordinances, language often comes up that is unclear. Cynthia asked if some of the co-owned moorings include co-owners of one vessel. William Fennelly said yes. Cynthia said one of the co-owned moorings belongs to her and her neighbors the Sandersons as they jointly own one boat.

Jo said the issue is about fairness. She asked Mr. Ford how long the average wait is on the waiting list. Mr. Ford answered roughly four years. Mr. Sprague said he called former Harbor Master Bill Pinkham to get on the list three years ago, then checked back last year after Mr. Pinkham's passing and found he was not on the list. He said he called Mr. Ford about it because he'd purchased a \$20,000 boat and couldn't put it in the harbor. He said Mr. Ford answered 5th was the best he could do.

Jo asked if Mr. Kimball owned the mooring. William Fennelly said Mr. Kimball and Mr. Sprague had been sharing it for many years. Mr. Ford said if one reads the ordinance the application must state the size of the boat – that's part of a state mandate. He said the first thing on the mooring permit states that the owner is responsible for compliance with all laws.

Mr. Sprague said he had purchased a rock and chain to use in the mooring space. William Fennelly said Mr. Sprague had owned a mooring since before the ordinance was passed.

Jo asked if procedurally the Selectmen could make the decision. Richard asked if Mr. Sprague and Mr. Kimball jointly owned the boat, could they then use the mooring. Mr. Ford said if there was a new rock and chain purchased, the application should be filled out. Mr. Sprague said the mooring had not yet been set. Mr. Ford said there could only be one owner to a mooring. He said if there are co-owners, one should be designated. Richard said he wondered if Mr. Sprague and Mr. Kimball co-owned the boat if the boat could use the mooring. Mr. Ford said who the boat is registered to could apply and receive the mooring. Richard asked about the 3 co-owned moorings. Mr. Ford said there are four co-owned moorings; one is a husband and wife. He said he's not sure of the Donaldson/Sanderson arrangement. He said whoever the boat is registered to would have the right to use the mooring per local ordinance and state law.

Jo said there is a potential solution for Mr. Sprague if he doesn't mind having Mr. Kimball's name on the ownership. She said the question would then seem to be about the size of the boat and whether they could upgrade. Mr. Ford said the mooring could be upgraded as long as there is an application and it's inspected. Richard asked if the inspection requirement includes a chain change. Mr. Ford said that would not require an application.

Brett asked about the word temporary in the ordinance. He said there is no definition of temporary and it's in the discretion of the Harbor Master to determine what temporary is. A short discussion followed. Richard noted the permit application and the permit form were both part of the original ordinance passed in 1995.

Jo said her discomfort is with the word "temporary" and "discretion of the Harbor Master". Jo said the Board needs to listen to and respect the harbor master and that is uncomfortable at times. She thanked Mr. Ford for the time he's put in this. She said this appears to be a special case, not someone trying to jump the line. Mr. Ford said state and federal laws say if anything happens to the vessel assigned to that mooring, the owner of the mooring is liable. He said if another boat is on it, the mooring owner is still liable, even if he doesn't know the boat is on there, unless it's an act of God. Mr. Sprague said he heavily insures his boat.

Cynthia asked about the statement that Mr. Sprague had a mooring since 1994. Mr. Sprague said Chris Briggs set a mooring for him, but he never retrieved it. Cynthia said that seems to be extraneous information.

Cynthia said the Board needs to proceed carefully and consider the people on the waiting list. Mr. Sprague said he came into the town office to get on the list 3-years ago. Cynthia said people who think they're on the list need to double check. Jo said it seems to fall into the statement on the permit. She asked how the discretionary basis of the Harbor Master fits into the rental situation. She asked which takes precedent – local or state law.

Mr. Ford said the state law is more stringent and would take precedent. He said MRSA Title 38 has to do with harbor control. Brett said he'd like to read the section on rental moorings. Jo asked if the Board could table the issue and have Mr. Sprague and Mr. Kimball discuss the issue of co-ownership, with the option of putting the boat into Mr. Kimball's name as well, and then do the right thing after some research.

Brett said the wording allows temporary use, and is curious about the rental part. He said he would favor letting Mr. Sprague use the mooring until this is settled. Mr. Sprague said he had not yet set the mooring. William Fennelly said he didn't see how other co-owners could be using moorings if the town won't let Mr. Sprague do it. Jo said the town needs to be fair. She asked again to table this to the next meeting and Mr. Sprague could explore the possible solution by talking with Mr. Kimball. She said the board could double check. William Fennelly said this has never been this stringent before, as others have used other peoples' moorings quite often. Mr. Sprague said that's why he didn't think this was a big deal.

Perry asked if there were many moorings that no one ties up to. Mr. Ford said about half of them. He said there are about 20 moorings that have sunk and people don't know where they are or who had them, but people pay their bill. He said he called one woman last May to remind her about paying. She said she hadn't had a boat for 15-years and didn't know anything about the mooring. She said the bookkeeper must have been paying the bill. He said it's been pretty lax on tracking down who owns the mooring, and there's no law against not using it. He said to eliminate that the town could either raise the mooring fees – Lamoine is the lowest in Maine at \$15.00 – or put into the ordinance that a mooring permit holder must have a boat on it within two years or the permit holder will lose the privilege. Perry said it looks like the ordinance should be revamped. He said he was shocked by how many are unused. William Fennelly said there are 60 on the list and only 40 physical moorings. A short discussion followed.

Perry said revamping the ordinance will not solve the problem at hand, but it does need to be revamped. Mr. Ford said he worked with Mr. Sprague in late 2005, and gave him a month to tie up on a mooring. Mr. Sprague explained how that happened. Jo said the Board will have to do some research, and will discuss it next meeting.

Gravel Inventory – Stu said he spoke with the Sewall Company and they were not able to do the aerial inventory inexpensively. Jo noted that the board received a letter from John Wuorinen offering to let the town use aerial photographs taken in 2001 for a water survey by the Lamoine Water Coalition.

Richard said the project would need ground control for aerial photos, and that would take a lot of engineering time. Perry said there did not appear to be any useable features in the first photo that is still there. Bob Alvarez said Steve Salsbury used utility poles. Perry asked if a utility pole is visible in the 1973 photograph. Jo reviewed the e-mail from Sewall. She asked if the town could ask if anything was in existence. Perry asked who would be asked. Mr. Alvarez said Sewall could contact Mr. Salsbury. Jo said it's in reference to the 1973 photograph. A short discussion followed.

Richard said that it might make sense to make this a back burner issue until the town hears from Gott on the final settlement and see if that sounds reasonable. Mr. Alvarez asked when that was due. Jo said it should be in June according to the contract. Mr. Alvarez said that makes sense. He said Gott had proposed to purchase 12 acres. He said if they lowered the floor another 10-feet and removed that much gravel over 12-acres, that would be another 75,000 yards. He said that's a lot of value – worth about \$125,000. He said he would go along waiting to see what Gott comes up with.

Cynthia asked about the pin replacement. Stu said he's not heard anything about that. Jo said this need to be on an agenda in June to follow up on if the Board hasn't heard anything. The Board asked Stu to send a reminder to Mr. Salsbury that June 30th is the deadline.

Financial Policy – Perry moved to approve the policy as edited. Jo 2nd. **Vote in favor was 5-0, Selectmen signed the policy.**

Road Name – Selectmen officially signed the order proclaiming the name “Lobster Lane”

Pole Location – Stu noted the Board had received notice of a pole being placed on Partridge Cove Road (Route 204).

Help from MDOT re: Local Roads – Dennis said Phil Curtis of MDOT will visit on May 11th at 9AM. He said Mr. Curtis will look at the town roads and give advice on how to proceed. He invited the Selectmen to ride along.

RRI Project – Stu said he thought of the frost heave on Partridge Cove Road as a possible RRI candidate. A short discussion followed. Jo asked if a bike path on Route 184 might qualify. A general discussion about the MDOT followed.

Joint Meeting with Planning Board – Stu said that's on the Planning Board agenda as well. He said he would let the Planning Board know what Selectmen dates are set, and possibly the meeting could take place outside a regular Selectmen's meeting time.

Computer for Code Enforcement Officer – Brett said he priced out laptop computers, and all were above the maximum that Stu is allowed by policy to spend. He said they run from \$550 to \$600 plus shipping. Jo asked if \$650 would cover it. Brett said yes, that would be adequate for CEO needs. Perry moved to allocate \$650 for a laptop computer for the CEO. Cynthia said she wants to make sure that computer follows the job, not the person. Jo said that would be the case, so if someone were covering for Dennis Ford, they would have access to the computer. Richard 2nd. **Vote in favor was 5-0.** Cynthia noted that pictures are helpful in CEO cases – and the town has a digital camera. Stu said Dennis uses it when needed.

Expenditure Warrant 21 – Selectmen signed warrant 21 for \$55,369.62. Stu noted that most of that was for the school payroll and the final snow plowing payment.

Cash & Budget Report – There were no questions.

Checking Account Review – Selectmen signed the statement expressing satisfaction with the review of the checking account reconciliation.

Notice from Bankruptcy Court – Selectmen wondered if this should be public information. Stu said it's up to the board whether it's given publicity or not, but the document from the bankruptcy court is a public document. He noted that collection of the tax will mean final settlement is possible for the 2003/04 taxes.

Meeting Schedule – Selectmen reviewed upcoming calendars and set the following meeting dates:

May 4
May 25
June 8
June 22
July 13
August 17

Other Business – Volunteer Appreciation – Jo and Cynthia discussed a date and format for an appreciation function for the staff and volunteers. The board agreed a dessert function with a program on May 22nd at 7PM would work. Stu said he would get the ball rolling with Betty Anderson at the school. Marion McFarland telephoned to say Blueberry Hill would offer ice cream for the event.

Harbor Ordinance – Perry said he would like to schedule a workshop on the Harbor Ordinance and possible changes. It was agreed the Selectmen should work with the Harbor Master on that.

There being no further business, the meeting adjourned at 8:30 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst.